

FEB. 17 2010 13:01 FR THOMSON LICENSING 609 734 6888 TO 915712738300
PU020286 P.07

Ser. No. 10/498,636
CUSTOMER NO. 24498
Amdt. dated February 17, 2010
Reply to Office action of December 8, 2009

REMARKS

The Office Action mailed December 8, 2009 has been reviewed and carefully considered.
No new matter has been added.

By this amendment, Claims 16 and 28 have been amended, and Claims 17 and 36 have been cancelled without prejudice. Claims 1-16, 18-35, and 37-38 are pending.

Claims 1, 3-5, 11-17, 22-29, 33, 35, and 37-38 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,677,979 to Westfield et al. (hereinafter "Westfield"). Claims 2, 6-10, 18-21, 30-32, 34, and 36 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Westfield in view of U.S. Patent No. 5,617,135 to Noda et al. (hereinafter "Noda").

It is to be noted that Claims 1, 16, 25, and 28 are the pending independent claims in the case.

It is respectfully asserted that none of the cited references, either taken singly or in combination, teach or suggest "a messaging system for managing display and transport characteristics in accordance with individual display requirements", as recited in Claim 1.

Moreover, it is respectfully asserted that none of the cited references, either taken singly or in combination, teach or suggest "a messaging system for managing display and transport characteristics of videoconference content in accordance with individual display requirements", as recited in Claim 25.

Against the preceding limitations of Claims 1 and 25, the Examiner has cited column 6, lines 23-27 of Westfield as disclosing the same, reasoning "using separate session data for each data, packets are sent according to higher or lower resolutions". The Applicants respectfully disagree with the Examiner's reading of Westfield.

For example, column 6, lines 17-27 of Westfield (inclusive of cited lines 23-27, and provided to show the context of the disclosure of the cited lines) disclose the following in their entirety (emphasis added with respect to context):

FIG. 8A is a process flow diagram of receiving data at the client. Preferably an application running at the client performs the steps shown in FIG. 8A. At a step 810, the client receives video data served by the server 5610 in a preferred embodiment. If the data is low resolution data, the data is displayed at a step 820. If the data is high resolution data, the high resolution data is displayed at a step 830. Whether the data is high resolution or low resolution can be established by any known method, for example, putting a special header into the

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data section of each packet or by using a separate network session for each set of data.

Thus, the cited portion of Westfield describes two methods for determining whether the data is high resolution or low resolution, namely (1) by putting a special header into the data section of each packet or (2) by using a separate network session for each data session. While the Examiner has seemed to rely upon the second method, both will be addressed by this response.

However, before addressing the two methods, it is respectfully pointed out that the context of the above cited portion of Westfield clearly relates to the receipt of data at a client.

Regarding the first method, namely putting a special header into the data section of each packet, clearly a "special header" or any information included therein cannot be considered to rise to a system, let alone a "messaging system", let alone a "messaging system for managing display and transport characteristics in accordance with individual display requirements" as recited in Claims 1 and 25.

Regarding the second method, namely using a separate network session for each data session, clearly the USE OF separate network sessions for each data session does not rise to a system, let alone a "messaging system for managing display and transport characteristics in accordance with individual display requirements" as recited in Claims 1 and 25.

Nonetheless, assuming arguendo that a special header (method 1) or the simple use of separate network sessions for each set of data (method 2) could somehow (although clearly unreasonably) be considered to be a messaging system, such special header or use of separate network sessions is explicitly described in Westfield for the purpose of determining "whether the data is high resolution data or low resolution data" and, since such purpose is clearly disclosed in the context of the client receiving data, such special header can only relate to display and not to transport characteristics (as explicitly recited in Claims 1 and 25), as the data has already been transported (received) and any information derived with respect thereto (i.e., with respect to transport) would be completely moot in any and all cases.

Hence, it is respectfully asserted that Westfield does not teach or suggest the preceding reproduced limitations of Claims 1 and 25. Moreover, while only Westfield was cited against Claims 1 and 25, it is nonetheless asserted that the remaining reference does not cure the deficiencies of Westfield, and is silent with respect to the preceding reproduced limitations of Claims 1 and 25.

Independent Claims 16 and 28 will now be addressed.

It is respectfully asserted that none of the cited references, either taken singly or in combination, teach or suggest "wherein said video playback device is adapted such that active

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participants in a videoconference session transmit video data at, at least one of, a higher resolution and a higher frame rate than passive participants in the videoconference session", as now recited in amended Claim 16.

Moreover, it is respectfully asserted that none of the cited references, either taken singly or in combination, teach or suggest "providing active participants in the videoconference session an ability to encode and transmit content at, at least one of, a higher resolution and a higher frame rate than passive participants in the videoconference session", as now recited in amended Claim 28.

It is to be noted that Claim 16 has been amended to now include the limitations of Claim 17, while Claim 28 has been amended to now essentially include the limitations of Claim 17 and 36. Hence, support for these amendments may be found at least in these (Claims 17 and 36) of the originally filed application, as well as the corresponding portions of the disclosure describing the same (see, e.g., Applicants' specification, p. 47, lines 7-13, and p. 49, lines 5-8).

The Examiner has cited column 6, lines 50-57 and Figure 9 of Westfield as disclosing the same, reasoning "a client using an interrupt becomes a participant by sending data from a new attention window to a server". The Applicants respectfully disagree with the Examiner's reading of Westfield.

Column 6, lines 50-57 of Westfield disclose the following:

FIG. 10 is a process flow diagram of changing the attention window at the server for a client. The client can be any of the clients of the teleconference. At a step 1010 the server receives new attention window information from a client. At a step 1020, the server updates the attention window parameters for the client. In a preferred embodiment the attention window can refer to either the low-resolution image of the currently displayed high resolution image.

Now, having reproducing the cited portion of Westfield, the context of the same, particularly of the mentioned attention window, will now be provided. For example, as disclosed in the Abstract of Westfield: " Low resolution and high resolution of a videoconference event are obtained, preferably by using two cameras at the event. A whole eye view is sent to client at low resolution. A user at the client can select one or more areas of interest to him ('attention windows')."

Hence, in a broader view (i.e., "whole eye view") already displayed to the user, a user may select an area of interest (i.e., an attention window). Hence, the attention window has nothing to

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do with whether a participant is active or passive, but rather is wholly directed to an area in the broader image to which the user has an (further) interest in.

Hence, it is respectfully asserted that Westfield does not teach or suggest the preceding reproduced limitations of Claims 16 and 28. Moreover, the remaining reference does not cure the deficiencies of Westfield, and is silent with respect to the preceding reproduced limitations of Claims 16 and 28.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP §2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The failure of an asserted combination to teach or suggest each and every feature of a claim remains fatal to an obviousness rejection under 35 U.S.C. § 103.¹⁰ Section 2143.03 of the MPEP requires the "consideration" of every claim feature in an obviousness determination. To render a claim unpatentable, however, the Office must do more than merely "consider" each and every feature for this claim. Instead, the asserted combination of the patents must also teach or suggest *each and every claim feature*. See *In re Rayka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) (emphasis added) (to establish *prima facie* obviousness of a claimed invention, all the claim features must be taught or suggested by the prior art). Indeed, as the Board of Patent Appeal and Interferences has recently confirmed, a proper obviousness determination requires that an Examiner make "a searching comparison of the claimed invention - *including all its limitations* - with the teaching of the prior art." See *In re Wada and Murphy*, Appeal 2007-3733, citing *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis in original).

Accordingly, Claims 1, 16, 25, and 28 are patentably distinct and nonobvious over the cited reference for at least the reasons set forth above.

"If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious" (MPEP §2143.03, citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)).

Claims 2-15 depend from Claim 1 and, thus, includes all the elements of Claim 1. Claims 17-24 depend from Claim 16 or a claim which itself is dependent from Claim 16 and, thus, include all the limitations of Claim 16. Claims 26-27 depend from Claim 25 and, thus, includes all the elements of Claim 25. Claims 29-38 depend from Claim 28 or a claim which itself is dependent from Claim 28 and, thus, include all the limitations of Claim 28. Accordingly, Claims 2-15, 17-24, 26-27, and 29-38 are patentably distinct and non-obvious over the cited references for at least the reasons set forth above with respect to independent Claims 1, 16, 25, and 28, respectively.

Moreover, said dependent claims include patentable subject matter in and of themselves

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and are, thus, patentable distinct and non-obvious over the cited references in their own right. For example, none of the cited references teach or suggest "wherein the messaging system includes an ability to at least one of transmit and receive a message that indicates a change from one of an active participant to a passive participant and from the passive participant to the active participant with respect to a current videoconference session", as recited in Claim 3. Moreover, none of the cited references teach or suggest "wherein the messaging system includes an ability to at least one of transmit and receive a message that indicates a change from one of an active participant to a passive participant and from a passive participant to an active participant with respect to a current videoconference session", as recited in Claim 26. Further, none of the cited references teach or suggest "wherein said step of providing the ability to manage display and transport characteristics comprises the step of providing a capability to at least one of transmit and receive a message that indicates a change from one of an active participant to a passive participant and from the passive participant to the active participant with respect to the videoconference session", as recited in Claim 35.

The Examiner has cited column 6, lines 50-57 of Westfield as disclosing the preceding reproduced limitations of Claims 3, 26, and 35, reasoning "any of the clients of the teleconference can have the attention window and sends to the server new information coming from the attention window". The Applicants respectfully disagree with the Examiner's reading of Westfield.

For example, as argued above with respect to Claims 16 and 18 (see above argument for completeness) since the same portion of Westfield is also cited there against, the attention window has nothing to do with whether a participant is active or passive, but rather is wholly directed to an area in the broader image ("whole eye view") to which the user has an (further) interest in.

Hence, it is respectfully asserted that Westfield does not teach or suggest the preceding reproduced limitations of Claims 3, 26, and 35. Moreover, the remaining reference does not cure the deficiencies of Westfield, and is silent with respect to the preceding reproduced limitations of Claims 3, 26, and 35.

In view of the foregoing, Applicants respectfully request that the rejection of the claims set forth in the Office Action of December 8, 2009, be withdrawn, that pending claims 1-16, 18-35, and 37-38 be allowed, and that the case proceed to early issuance of Letters Patent in due course.

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No fee is believed due with regard to the filing of this amendment. However, if a fee is due, please charge Deposit Account No. 07-0832.

Respectfully submitted,

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PAGE 15/15 *RCVD AT 4/1/2010 2:54:32 PM [Eastern Daylight Time]* SVR:USPTO-EFXRF-6/40 * DNIS:2738300 * CSID:609 734 6888 * DURATION (mm:ss):02:36 G.F. 15 **